

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAHSAAN FREEMAN,

Plaintiff,

v.

U.S. BANK N.A., d/b/a U.S. BANK,

Defendant.

CASE NO. 2:10-cv-01544-RSM

ORDER ON BENCH TRIAL
GRANTING JUDGMENT IN FAVOR
OF DEFENDANT

I. INTRODUCTION

This case is before the Court for judgment on Plaintiff Rahsaan Freeman's claim for promissory estoppel. He alleges that Defendant U.S. Bank National Association ("U.S. Bank" or the "Bank") made statements to him during the hiring process in 2010 that amounted to a legally enforceable promise. A bench trial was held to adjudicate the claim. For the reasons stated in the following Findings of Fact and Conclusions of Law, the Court enters Judgment in favor of U.S. Bank.

II. BACKGROUND AND PROCEDURAL HISTORY

This case concerns U.S. Bank's decision to terminate Mr. Freeman several weeks after offering him employment in 2010. Freeman's Amended Complaint asserted claims against U.S. Bank for promissory estoppel and negligent misrepresentation. The Amended Complaint sought relief on the basis that during the hiring process, U.S. Bank promised Mr. Freeman that the details surrounding a past termination with the Bank would not affect Mr. Freeman's future employment. The Court granted summary judgment in favor of U.S. Bank on both claims. Dkt. # 36. Mr. Freeman appealed, and the Ninth Circuit Court of Appeals affirmed in part, reversed in part, and remanded the case for further proceedings. Dkt. # 45. Although it affirmed the Court's ruling on the negligent misrepresentation claim, the Ninth Circuit held that the Court erred in granting summary judgment on Mr. Freeman's promissory estoppel claim. It held that there was a material issue of fact about (1) "the existence of a specific and narrow promise by U.S. Bank that the bank had done its due diligence and that [Freeman's] prior termination would not affect his new employment"; (2) about "whether he changed his position in reliance on the bank's promise by informing several banks with whom he had been discussing open positions that he had accepted another offer and notifying clients of his change to U.S. Bank"; and (3) about "whether justice requires the enforcement of the bank's promise: Was Freeman forthcoming and truthful throughout the interview process to the best of his recollection, as he contends, or did he purposefully omit information about his prior termination to increase his odds of being rehired?" *Freeman v. U.S. Bank Nat. Ass'n*, 527 F. App'x 619, 620-21 (9th Cir. 2013).

The Court held a bench trial on May 5, 2014. The Court has carefully considered the testimony of each of the witnesses, the parties' trial exhibits, the parties' proposed Findings of Fact and Conclusions of Law, and the closing arguments of counsel. The following constitute the

1 Court's Findings of Fact and Conclusions of Law pursuant to Rule 52(a) of the Federal Rules of
2 Civil Procedure. To the extent certain findings of fact may be deemed conclusions of law, or
3 certain conclusions of law be deemed findings of fact, they shall each be considered conclusions
4 or findings, respectively.

5 6 **III. FINDINGS OF FACT**

7 **A. Freeman's Initial Employment with U.S. Bank**

8 1. Freeman first worked at U.S. Bank from 1997 to 2000 as a Personal Banker. Def.'s Trial
9 Exs. A-4, A-7; Dkt. # 72, ¶ 5.

10 2. During this time, Freeman received recognition from the Bank for his sales
11 accomplishments. Pl.'s Ex. 3. Freeman was promoted to Area Sales Manager in the Brokered
12 Loan Division. Pl.'s Trial Ex. 4; Dkt. # 72, ¶ 6.

13 **B. Freeman's 2000 Termination**

14 3. In 2000, the Bank began investigating Freeman for committing a number of ethical
15 violations and falsifying bank documents. Def.'s Trial Ex. A-7. The Bank concluded that Mr.
16 Freeman had violated their code of ethics by having a family member process a second mortgage
17 on his home, and that Freeman had falsified bank documents. *Id.*

18 4. On March 6, 2000, Freeman was terminated from U.S. Bank for violating bank policies,
19 including falsifying loan documents. *Id.*

20 5. The Bank concluded that Freeman falsified sections of a U.S. Bank Advantage Line
21 Application for two married U.S. Bank customers. *Id.*

22 6. The Bank also concluded that Freeman falsified a verbal income and employment
23 verification form for the same two customers. *Id.*

24 7. On the original form, the two customers stated their incomes as \$30,000 and \$32,484. *Id.*

1 8. Freeman changed the customers' Advantage Line Application by altering their annual
2 incomes. *Id.* Freeman closed the two circles in the threes on the forms, making the numbers
3 eights. *Id.* The stated income figures went from "30,000" and "32,484" to "80,000" and
4 "82,484." *Id.*

5 9. Freeman altered other information on the application, including the year the business
6 started from "1999" to "1995," and the number of years as owner from blank to "4." *Id.*

7 10. Freeman changed the responses of the customers regarding Personal Savings Account
8 Balance and Savings Account Balance to larger numbers than originally produced by the couple.
9 *Id.*

10 11. Freeman added information to the portions of the application left blank by the customers
11 as well. *Id.* He filled in "476,000" as the Annual Sales as Reported for Tax Purposes and
12 "510,000" as the Approximate Net Worth. *Id.* Freeman also filled in the current business
13 checking balance as "11,000" and current business savings as "13,400." *Id.*

14 12. Additionally, Freeman falsified a Verbal Income and Employment Verification form for
15 the same customers. *Id.* For one of the two customers, Freeman wrote that he spoke to Ken
16 Clarkson at the Washington State Patrol on "6/11/99 at 4:45 PM." *Id.* He listed a phone number
17 but the phone number was actually the same as the customers' telephone line that was listed on
18 the Advantage Line of Credit Application. *Id.*

19 13. Prior to terminating Freeman in 2000, U.S. Bank Human Resources representative,
20 Sharon Bach, tried to verify the customer's income and learned that Washington State Patrol
21 does not verify income. Dkt. # 72, ¶ 16.

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14. Freeman was never given an official reason for his termination or a termination letter. Ex. A, p. 10 (Freeman Test., Trial Day 1).¹ He remembered two areas of primary concern during his termination meeting. *Id.* at p. 3 (Freeman Test., Trial Day 1). First, that he “coached” customers about how to fill out loan applications, and second that he used a family member to process a personal loan for him. *Id.* at pp. 3-6 (Freeman Test., Trial Day 1).

15. Both of these actions violated the Bank’s ethics policy. Def.’s Trial Ex. A-7.

16. Freeman altered the numbers the customers wrote on their form to higher numbers. *Id.* at p. 37 (Freeman Test., Trial Day 1). He did not call the Washington State Patrol, but still completed the Verbal Income and Employment Verification form.

17. The falsified documents were discussed during the 2000 termination interview.

C. Freeman’s Employment History

18. After his termination from U.S. Bank, Freeman worked for a number of different banks in a variety of roles. However, he was never employed with a single employer, aside from his own company, for more than three years.

19. From U.S. Bank Freeman went to work for First Horizon Home Loans.

20. After First Horizon Home Loans, Freeman went to work for a company called First Magnus for six months to a year, and then switched companies again and started with Sun West.

21. Freeman and a business partner decided to create a small business called Freeman Lundt and Associates.

22. In 2008, Freeman began working for Wells Fargo Bank as a Senior Commercial Real Estate Specialist. Dkt. # 72, p.3.

23. In 2010, Wells Fargo decided to dissolve the division that Freeman was working in. *Id.*

¹ Exhibit A, which is attached to this Order, contains certified excerpts of the testimony elicited during trial days one and two.

D. Freeman's Recruitment in 2010

24. In January of 2010, Wells Fargo offered him a separation agreement. Freeman accepted the agreement. Def.'s Trial Ex. A-8; Dkt. # 72, ¶ 22.

25. Under that agreement, he received a severance package that allowed him to receive his base salary and benefits through July 28, 2010. Def.'s Trial Ex. A-8; Dkt. # 72, ¶ 23. However, to receive a salary through that time, Freeman could not accept new employment until after March 28, 2010. Def.'s Ex. A-8; Dkt. # 72, ¶ 23.

26. While Freeman was looking for new employment, a bank manager at U.S. Bank named David Leonard called Freeman and asked him to apply for a job at U.S. Bank. Dkt. # 72, ¶¶ 26-

27. Leonard was recruiting new bankers to work for him at U.S. Bank. Leonard received a recommendation about Freeman from someone else in the industry. Ex. A, p. 45 (Leonard Test., Trial Day 2).

28. In their early conversations Freeman told Leonard that he had previously worked at U.S. Bank and that he had been terminated from that position. *Id.* at p. 46 (Leonard Test., Trial Day 2); Dkt. # 72, ¶ 29.

29. He told Leonard the exact reason that he was terminated was unclear. Ex. A, p. 46 (Leonard Test., Trial Day 2); *see also*, Dkt. # 72, ¶ 30. But, Freeman told Leonard that "[he] got terminated for violating the code of ethics, I did business with a family member. That was a no. And number two, I coached a client on how to qualify for the Advantage Loan application." Ex. A, p. 12 (Freeman Test., Trial Day 1).

E. Freeman's Disclosures to U.S. Bank about his Previous Termination

30. After the initial interview, Leonard and his manager, Joey Nix, interviewed Freeman for a second time. Dkt. # 72, ¶ 40. During this interview Freeman again told U.S. Bank that he was not sure of the exact reason he was previously fired. *See* Dkt. # 72, ¶ 42.

1 31. The two possible reasons he remembered were coaching a client applying for a loan
2 application and having his brother-in-law process his mortgage.

3 32. Freeman did not disclose that what he meant by “coaching” was writing false information
4 on a financial document. Further, Freeman submitted an employment application that stated, “I
5 was terminated from US Bank 11 years ago for violating the code of ethics. My second mortgage
6 was done by my brother in law (not supposed to do business with family) and I told a customer
7 how to fill out their advantage line application (which is what we were trained to do at the
8 time).” Def.’s Trial Ex. A-9; *see also* Dkt. # 72, ¶ 36.

9 33. Freeman did not disclose to Ms. Nix or Mr. Leonard that he altered and falsified loan
10 documents.

11 34. Nix did not think Freeman was honest with U.S. Bank during the interviewing process in
12 2010.

13 35. Leonard also felt that Freeman was not forthcoming about his previous termination from
14 U.S. Bank. Ex. A, p. 49 (Leonard Test., Trial Day 2). When asked the following: “Mr. Leonard,
15 when you reviewed the information that Ms. Bach sent to you, what did you conclude as to what
16 Mr. Freeman told you during the interview process?”, Leonard responded, “That what he was
17 terminated for was not the things that he had told us.” *Id.* (Leonard Test., Trial Day 2).

18 36. When Nix and Leonard confronted Freeman about the document falsification he became
19 defensive. He told Ms. Nix “that that couldn’t possibly be the case, because [the income
20 verification form] did not exist until well after 1999, and he felt that this was all part of a big
21 forgery to terminate him, that it was doctored-up information to terminate him and to discredit
22 him.” *Id.* at p. 54 (Nix Test., Trial Day 2).

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F. U.S. Bank's Due Diligence

37. Because Freeman's termination had occurred almost 10 years prior to his rehire, his original personnel file was destroyed.

38. Before hiring Freeman, Leonard and Nix discussed Freeman's situation with Human Resources representative Jan Coonley. *See* Dkt. # 72, ¶ 47. Coonley was the Human Resources representative responsible for Leonard's group.

39. Coonley, who was located in Los Angeles, was able to see that Freeman was marked as ineligible for rehire on the employee database, Peoplesoft, but she was unable to gather any more information from the internal site. *See id.* at ¶¶ 48-51.

40. Coonley directed Ms. Rodriguez and Ms. Schofield (human resources employees in the Seattle area) to search for any information related to Freeman's prior employment. *Id.* at ¶ 50. Ms. Rodriguez and Ms. Schofield were unable to find any information, such as a personnel file. *Id.* at ¶¶ 50-51.

41. Three weeks after Freeman was hired, Coonley contacted Sharon Bach after receiving a tip from an employee relations worker that Bach had more information regarding Freeman's termination in 2000. *Id.* at ¶¶ 62-64.

42. Bach attended Freeman's termination meeting in 2000. Def.'s Trial Ex. A-7. She memorialized her notes and impressions from that meeting. *Id.* However, Bach no longer supported the group Freeman was working for in 2000 and had moved offices from Seattle to Northgate. Bach also did not support the small business banking group that Freeman was hired into in 2010.

43. Freeman did not remember that Bach was present during his termination meeting in 2000.

44. Bach had additional information about Freeman that was no longer contained in his personnel file. Bach faxed a portion of Freeman's old personnel file to Ms. Coonley.

G. Promise that Freeman's Past Termination would not Affect his 2010 Employment

45. Freeman's testimony that Leonard and Nix promised him that his past termination would not affect his 2010 employment opportunity is not credible.

46. Freeman could not recall the exact language of the conversation but believed that both Leonard and Nix assured him his past termination would not affect his 2010 employment. Freeman stated, "The commitment to me was that my prior reasons for termination in the year 2000 were not going to be a problem for me taking this new job. The past was in the past and we're starting over. And those words -- those words came from David, 'The past is the past,' you know." Ex. A, p. 18 (Freeman Test., Trial Day 1). Freeman stated that Leonard and Nix "assured me that my previous employment -- previous termination wasn't going to be an issue moving forward with the new job, that the past was in the past, and I get to start over with U.S. Bank." *Id.* at p. 33 (Freeman Test., Trial Day 1).

47. Freeman's testimony was directly at odds with the testimony of Leonard and Nix. Neither Leonard or Nix told Mr. Freeman that he would not be terminated for any reason related to his past employment. For example, when asked "Did you ever tell Mr. Freeman that the past is in the past and nothing that had happened in 2000 would affect his current employment?" Leonard responded, "No." *Id.* at p. 50 (Leonard Test., Trial Day 2). Similarly, the following testimony was provided by Nix:

Q: And did you ever say anything to Mr. Freeman that suggested he couldn't be terminated for some specific reason?

A: No.

Q: And did you ever promise him, "the past was in the past"?

A: No.

Q: Did you ever say anything like that?

1 A: No.

2 Q: All right. And did you ever tell him that his prior termination would not impact
3 his future employment with US Bank?

4 A: No.

5 *Id.* at p. 56 (Nix Test., Trial Day 2).

6 48. Freeman believed that Nix and Leonard were unhappy with his termination and thought
7 that he was getting “a raw deal.” *Id.* at p. 22 (Freeman Test., Trial Day 1).

8 49. Nix and Leonard, however, were not upset that U.S. Bank was terminating Freeman. Nix
9 was upset that Freeman did not disclose the entirety of the circumstances surrounding his past
10 termination. Leonard never told Freeman that he received a “raw deal”:

11 Q: Did you tell him that?

12 A: That he got a raw deal?

13 Q: Yeah.

14 A: No.

15 *Id.* at p. 48 (Leonard Test., Trial Day 2). Further, Nix was the person responsible for firing
16 Freeman and she did not think he got a “raw deal”:

17 Q: At any point did you think he got a raw deal?

18 A: No.

19 Q: And did you ever tell him that you thought he got a raw deal or that you thought the
20 bank was doing something unfair?

21 A: No.

22 Q: At any point did you tell him the termination decision was
23 unfair?

24 A: No.

Q: And who made the termination decision?

1 A: I did.

2 *Id.* at pp. 51-52 (Nix Test., Trial Day 2).

4 IV. CONCLUSIONS OF LAW

5 A. Promissory Estoppel

6 To succeed on a claim for promissory estoppel, a plaintiff must prove each of the
7 following five elements by a preponderance of the evidence:

8 (1) a promise which (2) the promisor should reasonably expect the promisee to
9 change his position and (3) does cause the promisee to change his position (4)
justifiably relying on the promise, in such a manner that (5) injustice can be
avoided only by enforcement of the promise.

10 *Havens v. C & D Plastics, Inc.*, 876 P.2d 435, 442 (1994) (internal brackets omitted) (quoting
11 *Klinke v. Famous Recipe Fried Chicken, Inc.*, 616 P.2d 644, 648 n.2 (1980)); *see* Restatement
12 (Second) of Contracts § 90 (1981). Here, Freeman has failed to establish elements (1)—that he
13 was made a promise by U.S. Bank and (4)—that even if a promise had been made, he would be
14 justified in relying on such a promise.

15 1. Promise

16 The threshold requirement for Freeman's promissory estoppel claim is that there was a
17 promise made by U.S. Bank. *Havens*, 876 P.2d at 443 (quoting *Hunt v. Great W. Sav. Bank*, 774
18 P.2d 554, 557 n.4 (1989)). A promise is "a manifestation of intention to act or refrain from acting
19 in a specified way, so made as to justify a promisee in understanding that a commitment has been
20 made." *Id.* "[A]lthough promissory estoppel may apply in the absence of mutual assent or
21 consideration, the doctrine may not be used as a way of supplying a promise." *Id.*

22 Freeman failed to establish that U.S. Bank made him a promise. First, Nix and Leonard
23 offered credible testimony that U.S. Bank never made the following promise to Freeman: that his
24

1 past termination would not affect his 2010 employment. Their testimony did not corroborate Mr.
2 Freeman's testimony that he was told that "the past is in the past." Moreover, Ms. Nix's
3 testimony revealed that she, and not human resources, made the decision to terminate him after
4 additional evidence had come to light about his previous termination because she believed that
5 he had misrepresented the nature and gravity of his past unethical violations. She did not equate
6 "coaching a client to fill out an advantage line application" with fraudulently altering loan
7 documents. Ultimately, she made the termination decision because she felt that she had been lied
8 to during the hiring process.

9 Second, Mr. Freeman failed to identify the words that were used to promise him that
10 would not be terminated in the future, despite remembering the exact "promise that he would
11 have a laptop and a place to work." At most, Mr. Freeman recalled comments that the "past was
12 in the past" and vague assurances that his past termination would not affect his employment in
13 2010. However, all of this testimony was directly contradicted by testimony from Leonard and
14 Nix. Leonard and Nix affirmatively stated they made no such promise to Freeman.

15 Third, although Mr. Freeman argued that he had also been promised that the Bank would
16 do "its due diligence," the evidence and testimony presented at trial demonstrated that U.S. Bank
17 went through the proper channels to investigate the circumstances of Freeman's prior
18 termination. Nix and Leonard contacted the appropriate human resources representative, Ms.
19 Coonley, in order to obtain more information. Because of U.S. Bank's retention policy, Coonley
20 was unable to locate Freeman's full personnel file. Nix and Leonard hired Freeman based on the
21 information he provided about his prior termination, and the lack of any conflicting information.
22 However, once Nix and Leonard discovered the true reasons for Freeman's original termination
23 they felt Mr. Freeman was not truthful during the interview process.

1 At the core of a promissory estoppel claim is the requirement of a promise. Having found
2 no such promise from U.S. Bank, the Court finds that Freeman fails to satisfy the first element of
3 promissory estoppel.

4 2. Justifiable Reliance

5 Even if Freeman established that U.S. Bank made him a legally enforceable promise, he
6 has failed to demonstrate that he would have been justified in relying on U.S. Bank's promise. It
7 would not have been reasonable for Freeman to rely on a promise made by the Bank that "the
8 past was in the past." At the time the Bank allegedly made the promise, Freeman had not
9 disclosed to U.S. Bank that he falsified loan documents in 1999. Rather, he told the Bank on
10 numerous occasions that he only remembered "coaching" a client and doing business with a
11 relative. Freeman did not disclose that he falsified loan documents. Once that information came
12 to light, both Nix and Leonard felt that Freeman did not accurately or fully disclose the reasons
13 for his previous termination. Because Freeman did not disclose that he falsified loan documents
14 by altering numbers and entering demonstrably false information on the documents, he was not
15 justified in relying on any purported promise made by U.S. Bank that he would not be terminated
16 in the future based on the circumstances of his previous termination, should the details
17 surrounding his termination surface at a later date.

18 **V. CONCLUSION**

19 Having fully considered the evidence presented at trial, the exhibits admitted into
20 evidence, and the argument of counsel, and being fully advised, the Court finds in favor of U.S.
21 Bank on Plaintiff's remaining claim.

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1 The Clerk is directed to enter judgment accordingly.

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3 Dated this 31st day of July 2014.

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6 RICARDO S. MARTINEZ
7 UNITED STATES DISTRICT JUDGE
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RAHSAAN FREEMAN, an individual,)
)
Plaintiff,) CASE NO. C10-01544RSM
)
v.) SEATTLE, WASHINGTON
) May 5 & 6, 2014
U.S. BANK N.A. d/b/a U.S. Bank,)
)
Defendant.) [REDACTED] EXCERPTS
) OF TRIAL EXAMINATION

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: DANIEL F. JOHNSON
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1 internal staff back in Minnesota, and I ended up getting a
2 broader scope of responsibility in Northern California and
3 Utah. I was flying all over the place.

4 Q And to whom did you report in this role?

5 A Ryan Gipple.

6 Q How did things go in this position for you?

7 A Very well. It was -- it was a new division that a lot of
8 upper management people were skeptical about. They thought
9 that the numbers projected and earnings that we were going to
10 make in the first year, second year, and third year were
11 extremely aggressive, and they didn't think they were
12 realistic.

13 Q And?

14 A We ended up hitting our first year's projection in, like,
15 the first five months. We exceeded it very fast.

16 Q And it wasn't long after that that you were terminated,
17 right?

18 A Yeah, the following year.

19 Q Do you recall when that occurred?

20 A I think it was in the springtime. I don't remember exact
21 dates.

22 Q You were again called into a meeting and asked questions?

23 A Yes.

24 Q Tell us, what was your reaction? Tell us about that,
25 including your reaction.

1 A I got called in out of the blue to come meet with my boss,
2 Ryan. And I came in there, and from what I can remember, you
3 know, it was Ryan, and it was a guy on the phone, a corporate
4 security guy.

5 And I truly do not remember Sharon Bach. I just don't
6 remember her. But those were the two that stuck out to me.
7 Ryan was the one who actually terminated me. But it was a
8 couple-hour, you know, meeting where we were going over past
9 sales activities that I did. So it was, you know, long after
10 this position. I think there were activities from ninety --
11 maybe '97, clients I had worked with in the past, and closed.

12 Q Which specific things do you recall being interrogated
13 about?

14 A Well, what I recalled was that I violated the code of
15 ethics. And the two things that I remember, that I felt like
16 they spent the most time on, was the coaching a client on how
17 to qualify for the Advantage Line program. And then number
18 two, doing my second mortgage with my brother-in-law, because
19 you weren't supposed to do business with family.

20 Q Why did you do it?

21 A I had him process my loan because I didn't want anyone
22 else knowing my income levels. I trusted him. I didn't
23 think twice about it, because other employees dealt with
24 family members. And there was nothing -- it was done
25 accurately, with a full documentation loan. I got my

1 employee discount, and that was it.

2 Q And the coaching -- I'm going to have you turn to
3 Exhibit 12.

4 MR. JOHNSON: And the plaintiff offered 12. I don't
5 think there's any objection to that one.

6 MS. LUCHT: I don't object, other than it's a partial
7 exhibit.

8 THE COURT: Thank you. Exhibit 12 will be admitted.
9 (Exhibit 12 admitted.)

10 Q (By Mr. Johnson) So I'm going to ask you to turn to the
11 second page, and tell us what this document is.

12 A This was the U.S. Bank Advantage Line application, which
13 was a two-page application. That program was a stated-income
14 business line of credit.

15 Q So what was an Advantage Line loan? What was the product
16 used for?

17 A It could be used for whatever the business needed at the
18 time. And I think the max the loan amount on it was \$75,000,
19 or maybe \$100,000 at the time. But they can take those funds
20 and use them for whatever. We didn't have any stipulations
21 back then on what they used the money for.

22 Q What do you mean by "stated loan"?

23 A Stated income. We did not verify their income. It was
24 whatever they put down on the application, so it was a
25 credit-score-driven product.

1 Q Was that an unusual product?

2 A Yeah, yeah, definitely. It didn't fall right in line with
3 all the banking program products: no assets, no docs, stated
4 income. It was -- if you have a credit score of 720 or
5 above, we'll give you money, basically.

6 Q Do you recall this one?

7 A Not really, but, I mean, looking at it, you know, it
8 brings back what the program was, how it worked, how we went
9 out and marketed it, but I don't remember the client
10 specifically. A little bit after reviewing this, very
11 little.

12 Q So what is it you think you did with respect to this
13 application that was determined to be wrong, that you were
14 interrogated about in 2000?

15 A What I did was I coached the client on what they needed to
16 do to qualify for this loan. And they left, I think on this
17 particular one -- I think we have another copy somewhere in
18 here of the actual versus the one that was submitted, and
19 they left areas of it blank. And I think they were referred
20 to me by a wholesale broker. And I think he actually gave
21 them a little bit of coaching, and so they left those areas
22 blank for me to help them figure out what they needed to do
23 to qualify for this.

24 And it was very common for us back then to either receive
25 these applications already filled out from the client or the

1 broker, or if we had things blank, we filled them in for the
2 clients while we were on the phone with them, and that's
3 where a lot of times the coaching came into play. They maybe
4 filled it out, and, you know, based on my knowledge of this,
5 I kind of looked at it and knew they wouldn't qualify for
6 this, and how we were coached back then. If that was the
7 case, we'd call them and say, "Hey, based on the numbers you
8 have here, you're not going to qualify for this loan. Do you
9 still want me to send this in like this?" And nine times out
10 of ten, they'd, you know, say, "Of course not." They'd say
11 no.

12 And at that point in time, you know, they'd say, "What do
13 I need to qualify here?" And we'd tell them, "You're going
14 to have to be at this income level," you know, here, here,
15 here, and, "Do you want me to make those changes for you?"
16 You know, and then we'd make the changes and send it in and
17 get it approved.

18 Q And that's what you came to understand you had done here,
19 and that you were being disciplined for it; is that right?

20 A Correct.

21 Q So can you -- I don't know if you can read this, but can
22 you give an example of how you would have likely coached this
23 person if -- if they came in, as you say, with these blanks?

24 A Sure.

25 Under "gross annual sales," where it says "476," you know,

1 maybe they had a hundred thousand in there, and I knew they
2 had to be over 450 to qualify for the line of credit, to get
3 them the maximum amount of money they needed. I would have
4 told them that. "In order to get the maximum, we're seeing
5 clients at 450 and above qualify for this loan. You're going
6 to need to have at least two years of business, your net
7 worth has to be X when you have Y. Do you want to make that
8 change, or do you want me to make that change for you?"

9 If they didn't have any money, you know, in their account,
10 or something -- if I remember right, I don't think the bank
11 didn't like to see that, you know, very little liquidity, so
12 we would coach them, "Hey, you know, this number is going to
13 need to look better." And so that was kind of the culture
14 and environment back then.

15 Q All right. So turn the page, then, to the next document,
16 marked USB132 at the bottom. Can you tell us what that is?

17 A This is a verbal verification form for employment.

18 Q What was this for?

19 A This was for personal business, so maybe for car loans,
20 equity loans, personal credit lines, credit cards, whatever.
21 Anything personal. Nothing business.

22 Q And did it have to do with the Advantage Line application
23 that we were just looking at?

24 A Not at all. Two completely separate things.

25 Q But it had the same client's name, right?

1 A Yes.

2 Q So do you surmise they were seeking a different loan? Is
3 that what results in having this document created?

4 A Yeah. A lot of times when we did these Advantage Lines,
5 we also did personal credit lines for them, credit cards, car
6 loan. I mean, you name it. We were taught to cross loan
7 anything that we could that they might qualify for.

8 Q And is this your handwriting?

9 A It looks to be my handwriting, yes.

10 Q And would there be any documentation for this personal
11 line of credit that this is related to?

12 A No. A lot of those were stated income also. And also, at
13 times, we just got approvals kicked out to us on the system.
14 We would -- we had lists to call, to say, "Hey, by the way,
15 do you know you're preapproved for a \$25,000 personal credit
16 line?" And there was nothing needed. They'd just say yes or
17 no, and if they wanted the line of credit, we booked it, and
18 they had it. Very, very different than today.

19 Q And do you know where you got the information that you
20 wrote on this form?

21 A I believe in this case -- I probably got this from the
22 broker that sent me this client.

23 Q When would you accept income verification like this from a
24 broker?

25 A A lot. Yeah, quite -- quite a bit. I mean, even after we

1 had the broker loan division opened up, there were certain
2 brokers that we allowed to do these, that we vetted, and the
3 bank felt, you know, okay with these guys as far as the risk,
4 and we were willing to -- allowed to do that business. But
5 in the beginning, everybody did it.

6 Q And if you got this information from a broker, that means
7 you did not call the Washington State Patrol to see if this
8 individual was employed there and how much he made?

9 A Correct. I could have gotten this off of the 1003, which
10 is their application, and in a 1003 mortgage, it has all this
11 information already listed in it.

12 Q "Their application." Whose application?

13 A The mortgage broker or the wholesale company.

14 Q Okay. Is there anything on this document that you knew
15 was false?

16 A No, not -- not that I knew.

17 Q Do you remember discussing this in the interrogation with
18 U.S. Bank in March 2000?

19 A Not really. When I see it now, after going through this
20 process, you know, I can -- I know that this was a company
21 that went hand in hand with what I was doing for the client
22 back then. We were doing multiple products for this one
23 particular client, business and personal. But I don't
24 recollect the specific conversation about this.

25 Q And this is not something that you mentioned later in

1 2010, when you were talking to the bank about coming back to
2 work for them?

3 A Not to my knowledge. There were 12, 15 things that were
4 discussed.

5 Q Do you remember any others, beside -- we've now talked
6 about your own second mortgage you did with your
7 brother-in-law, the Advantage Line application that's in this
8 exhibit, and this income verification form. Do you remember
9 any others?

10 A No. I only know there were multiple things discussed,
11 because of what documentation we have now.

12 Q So what happened after the interrogation concluded? What
13 happened next?

14 A I was asked to leave the room. I think they called me
15 back in maybe ten, fifteen minutes, and then they terminated
16 me. And when they terminated me, they said, "We're deciding
17 to end your employment here, and turn in your laptop and
18 leave the keys." That was it. They didn't give me reasons.
19 I didn't get a termination letter. I just -- I just left
20 shocked, crushed, you know, demoralized. I'd never
21 experienced anything like this before, especially when I was
22 at such a high in my career performance-wise. This was
23 definitely a valuable learning lesson.

24 Q How old were you?

25 A I think I was 23 at the time. Your folks to see if this is

1 even something that's realistic." And I said, "I don't know
2 if this meeting is going to be a good use of our time," and
3 he said, "Just come meet me. You come highly recommended, so
4 let's talk."

5 Q And did you?

6 A Then I came to Bellevue, and I had an interview with him.

7 Q How long was that?

8 A You know, probably at least an hour or more. I don't
9 remember.

10 Q How did you feel about being recruited back?

11 A You know, on one hand, it was great. It made me feel
12 good. Because I got terminated from that bank, and it's the
13 one spot in my career that, I mean, if I could fix it, change
14 it, I totally would. I felt like that would be my
15 opportunity to do that. I said, "I totally believe
16 everything happens for a reason." And so I talked to a
17 couple of people that knew my situation at U.S. Bank, that
18 still work there, too, and I said, "What do you think?" And
19 they're, like, "Man, get back here. You'd be great on the
20 team." And so I -- I did. I felt really good. But on the
21 same end, too, I was cautiously optimistic, because I know
22 how it works. I've been in banking for a long time. When
23 somebody is ineligible for rehire, you have to have a very
24 compelling case, or else you get HR to, like, "Go ahead and
25 hire that person." So like I said, I was cautiously

1 optimistic.

2 Q And so you met with David Leonard. Did you talk in detail
3 then about your previous termination?

4 A Yes, definitely.

5 Q What did you say? Or what did he say?

6 A He asked me what happened, you know, "Tell me what
7 happened." And I told him, "It was a long time ago, here's
8 what I remember. I got terminated for violating the code of
9 ethics. Number one, you know, I did business with a family
10 member. That was a no-no. And number two, I coached a
11 client on how to qualify for the Advantage Loan application."
12 I also told him that back then it was pretty normal.

13 I also told him about my investigation in 1999, and said
14 how I was accused of accepting money under the table, and,
15 you know, I had a lot of -- a lot of bankers back then that
16 were pretty jealous, you know, didn't like me. Still, you
17 know, I knew that was going to be a challenge, coming back to
18 the bank. But, you know, I had that negative connotation on
19 me at U.S. Bank.

20 Q Let me have you look at what's been marked as Exhibit 9.

21 A Okay.

22 Q Can you just identify that for the record?

23 A This is my application that I made online to U.S. Bank for
24 the 2010 job.

25 Q At David Leonard's request?

1 A Correct, yeah. This came after we had met. Let me see.
2 I don't know what the exact date is. Okay. It looks like it
3 was on February 9th. So I had already met him prior, prior
4 to filling this out. I had met him and Joey, possibly, the
5 second time around, before I even filled this out. I can't
6 remember. They moved really fast.

7 MR. JOHNSON: Plaintiff offers Exhibit 9.

8 MS. LUCHT: No objection.

9 THE COURT: Exhibit 9 will be admitted.

10 (Exhibit 9 admitted.)

11 Q (By Mr. Johnson) Just flipping to the page marked USB165
12 at the bottom.

13 A Okay.

14 Q Did you disclose there something about your termination,
15 and answer their questions?

16 A I did. It says, "Have you ever been discharged without
17 notice or allowed to resign prior to termination in
18 conjunction with previous employment? Please describe the
19 circumstances below." And my answer was, "I was terminated
20 from U.S. Bank 11 years ago for violating the code of ethics.
21 My second mortgage was done by my brother-in-law. I'm not
22 supposed to do business with family. And I told customers
23 how to fill out their Advantage Line application, which is
24 what we were trained to do at the time. Since then, I've had
25 no other terminations from any other company."

1 Q Okay. Now, you started to say that you had another
2 interview with David Leonard and someone else?

3 A Joey Nix, who is here today.

4 Q And what occurred -- describe that interview, please.

5 A The meeting was very much like the first one with David
6 Leonard, where I explained a lot about my past at U.S. Bank,
7 and how I thought that was going to be a roadblock, you know,
8 coming -- coming back. Also, talked about my -- what I had
9 done since U.S. Bank and my performance, and we went over the
10 jobs I had on my resumé. And outside of that, that was it.
11 They still wanted -- after that, they still wanted to proceed
12 in bringing me back, and I said, you know, "You guys are
13 going to have to do your due diligence, and look at my files
14 with U.S. Bank, and let me know, because I'm still talking
15 with other banks." And I wasn't counting on U.S. Bank,
16 because, honestly, I didn't think I was going to be able to
17 be rehired. I've been through this process as the hiring
18 manager, and it's a tough thing to get past.

19 Q What was your impression about Ms. Nix and Mr. Leonard at
20 that point?

21 A My impression was good. You know, I thought I would work
22 well with them and their team. I understood U.S. Bank's
23 environment, their culture, and I wholeheartedly thought I
24 was going to be a top producer there. And like I said, for
25 myself, I felt really good, because I was getting a chance to

1 go back.

2 Q Did either of them use the term "due diligence" with you?

3 A Yes, yes, definitely.

4 Q What did they say?

5 A I don't remember the exact words, but multiple times, in
6 person and on the phone, especially with David, because I had
7 more communication with David than Joey, both of them said
8 they were going to look into, you know, my past with the
9 bank, and let me know if they were going to be able to
10 proceed, and not to give up on, you know, this job.

11 Q And did you believe them?

12 A Wholeheartedly.

13 Q Okay. And then what happened?

14 A They ended up coming back to me within some period of
15 time, I don't know exactly, and telling me that they were --
16 they were going to rehire me, and that my background check
17 came back clean, and my past employment and termination
18 reasons at U.S. Bank were not going to affect this new job,
19 my new employment there.

20 Q Did you ask about that when they told you they wanted to
21 hire you?

22 A Definitely, yeah.

23 Q Do you remember what you said?

24 A I don't remember how I asked it, but I definitely asked it
25 and I remember David Leonard saying hey you're good, you're.

1 A Okay.

2 Q Can you identify that for the record?

3 A Yes. This is a U.S. Bank compensation plan back from
4 2010, when they hired me.

5 Q Are you looking at 11?

6 A Exhibit 11, yes.

7 Q Dated March 3rd?

8 A Yes, March 3rd, 2010.

9 Q Is this a letter you received from U.S. Bank?

10 A No. This is the plan that Dave gave me. Oh, I'm sorry.
11 You're right. This isn't the comp plan. This was my offer
12 letter.

13 Q Okay. And did you receive this letter from U.S. Bank?

14 A Yeah, I believe so.

15 Q And was that before or after David Leonard had talked to
16 you and offered you the job?

17 A Oh, this was after, definitely.

18 Q What did you understand was the purpose of this letter
19 when you received it?

20 A To offer employment to me. It's the green light to come
21 back to U.S. Bank; that they had done their due diligence,
22 and I was eligible for rehire, and my past termination wasn't
23 going to affect my future employment.

24 Q So did you understand that you had to accept this letter
25 again, after having talked to David Leonard?

1 A I don't know.

2 Q What's the second page there?

3 A The second page is -- looks like the terms of my
4 employment, start date, job rate, title, et cetera.

5 Q Your starting salary was \$70,000?

6 A Correct.

7 Q Did you negotiate that?

8 A The typical salary for the job, I think, was \$60,000
9 across the board. And the reason why their salaries are
10 lower is because their incentive plan is so aggressive. You
11 can make your salary in a quarter.

12 So I told David, when we were discussing -- before this
13 letter came, you know, I had a higher salary before that, I
14 had higher salary opportunities that I was looking at, and I
15 wanted to know if I needed to do anything more. And he said
16 he ran it up the chain. It had to be approved by a man named
17 Ted. I thought it went to Joey. He said that wasn't
18 something that they regularly did. He gave me an increase in
19 my salary, and David asked me not to mention that to any of
20 the other bankers.

21 Q Did you read all the text on this first page of this
22 letter?

23 A Possibly. I thought it was standard operating verbiage.
24 Like I said, I've been a hiring manager for many years, so I
25 probably honestly didn't pay a ton of attention to this.

1 Q And do you remember whether you read the last paragraph
2 that talks about at-will employment?

3 A I don't remember that. Like I said, it's pretty standard
4 verbiage for banks.

5 Q At the time that you accepted employment to go back to
6 U.S. Bank, at the time that you received this letter, did you
7 understand that U.S. Bank had made a commitment to you?

8 A Yes.

9 Q What was the commitment?

10 A The commitment to me was that my prior reasons for
11 termination in the year 2000 were not going to be a problem
12 for me taking this new job. The past was in the past, and
13 we're starting over.

14 And those words -- those words came from David, "The past
15 is the past," you know, "We're going to..."

16 MR. JOHNSON: I think I forgot to offer Exhibit 11 in
17 evidence.

18 MS. LUCHT: No objection.

19 THE COURT: Thank you. 11 will be admitted.

20 (Exhibit 11 admitted.)

21 Q (By Mr. Johnson) And when did you start working at U.S.
22 Bank the second time?

23 A I think it was April 1st. Yeah, April 1st.

24 Q And you talked a little bit about what you were doing in
25 the interim. Can you give just a little more detail about

1 how it is that you were working to build business for U.S.
2 Bank in March, before you formally started?

3 A I went out to all my centers of influence, which are CPAs,
4 attorneys, commercial real estate agents, other bankers, just
5 all the people in my network as clients, that I thought I'd
6 be able to bring over to U.S. Bank as clients at some point
7 in time. They where people that would generate client
8 opportunities for me, and I started laying the groundwork,
9 because there were deals out there, and there were deals at
10 Wells Fargo that were falling apart, and I knew all the
11 bankers there, and they were trying to find homes for
12 clients. And so, you know, I had a lot of opportunities out
13 there to close deals. And I understood, like I said, the
14 U.S. Bank major -- I understood their lending policy, and so
15 I thought I'd be able to hit the ground running and bring in
16 some new business barely through the gate.

17 Q Describe your first few weeks of work at U.S. Bank.

18 A It was me meeting some of the other bankers, going to
19 training in California, and me doing exactly what I'd just
20 stated: Meeting with my centers of influence in my network,
21 trying to bring business in.

22 Q And then what happened?

23 A I got a call when I was in California from David Leonard
24 while I was in training, saying, "Hey, I need to talk to you.
25 Your past termination is coming up again." And I was

1 shocked, and said, "Why? Why now? I thought this was all
2 done."

3 And I don't remember exactly what he said, but he told me,
4 "There's this Sharon Bach lady that found out you're back in
5 the bank, and she has some files on you, or something, and we
6 need to talk to you as soon as you get back here." So I
7 believe I flew back, like, the next day, which I think it was
8 a Thursday, and came up to Bellevue and met with David and
9 Joey, and they were having conversations. They were on the
10 phone in Joey's office with maybe Sharon, HR people, I don't
11 know. I wasn't allowed to go in there.

12 But when I got there, David told me, "Yeah, this thing in
13 1999 came up, and you were part of this, this guy that U.S.
14 Bank took to court for damages," and it was that Gary Dunn
15 guy, who accused me of being paid under the table and closing
16 fraudulent loans.

17 And my name was in the court transcripts. And this was
18 something I already told them about. And so we went back and
19 forth, and they came back and said, "Okay. No. That's off
20 the table. That's fine," you know, and I said, "I was
21 exonerated of that, and then promoted after that, and I told
22 you about this. Why is this an issue now?"

23 And then they just kept coming back with more things. Now
24 it was, "You did loans for clients who didn't have equity in
25 their house." Well, we did 125 percent loans. They were,

1 actually, one of our more competitive loan products. That
2 was one of the things that came up.

3 I don't remember if they actually mentioned the Advantage
4 Line deal. I don't think we talked about that until the
5 following week, when they actually terminated me. But it
6 was -- it was really -- it was just really odd and weird to
7 me.

8 And so they put me on administrative leave, and then the
9 following week, I believe it was Monday, David and Joey
10 called me and told me that I had to be terminated. That's
11 when some of these other things came up and why it didn't
12 make sense to me when they were saying, "Yeah, there's this
13 Advantage Line and there's this verbal verification form that
14 you filled out for this program." And that's when I was
15 saying that doesn't make any sense, they don't go together,
16 they're two completely different things. And I couldn't see
17 anything because I was on the phone. So I was trying to put
18 this all together in my head and trying to figure this out.

19 And after talking to them for, I don't know, maybe an
20 hour, at the end, I think they -- one of them may have given
21 me the person's number to call to appeal this. And so I
22 followed the appeal process.

23 But, yeah, I was shocked. I just can't believe this.

24 Q Did you speak to anyone else about this besides David
25 Leonard and Joey Nix?

1 A About?

2 Q About the new information.

3 Let me back up.

4 You've described what it sounds like is two
5 conversations, one in David Leonard's office, where he and
6 Joey were coming in and out, on a, I think you said, Thursday
7 or Friday?

8 A It might have been just David. I can't remember. But I
9 know I saw the two of them.

10 Q And then you also described a phone call the following
11 Monday, where they ultimately terminated you?

12 A Correct.

13 Q Did you have any other conversations in between or around
14 that that related to the termination?

15 A Not that I remember.

16 Q And was anybody involved in either of those two
17 conversations besides you and David and Joey?

18 A Not that I recall.

19 Q And what did they seem to think about this?

20 A They thought I was getting a raw deal.

21 Q Did they say that?

22 A Yeah. And they were upset. There were other expletive
23 words used about what was going on, and the compelling
24 statement from them was that they didn't agree with it, and
25 that they thought Sharon Bach had it out for me, that she was

1 extremely difficult to deal with. I think I was told she
2 produced handwritten documents, new documents, new
3 information that had, you know, responses from me that were
4 one-word responses, and they thought it was weird and it just
5 didn't seem right.

6 Q That's what they said to you?

7 A Yeah.

8 Q In the conversation in which they terminated you?

9 A Correct.

10 Q Over the phone?

11 A Yes.

12 Q And you said this conversation lasts about an hour,
13 approximately?

14 A Yeah.

15 Q And you talked about documents on that phone call?

16 A Yeah, we did, that that's, like I said, when they were,
17 you know, mentioning some of the items that were brought to
18 their attention, and I was trying to, you know, dispute them
19 or trying to understand what they were looking at. It
20 just -- like I said, it didn't make sense.

21 Q And they brought up the Advantage Line loan application?

22 A Yeah.

23 Q And was their understanding that that was what you had
24 told them, before they hired you, about?

25 A Yeah. And I also told them about the 1999 investigation,

1 and that still came back, you know, during this process.

2 Q Uh-huh. And did they ever mention the income verification
3 form?

4 A Yeah.

5 Q That we looked at earlier?

6 A Yes.

7 Q And what did you say about that?

8 A I said that that doesn't go together with the Advantage
9 Line application. They're two completely separate deals.

10 Q So had they told you over the phone that they were
11 connected?

12 A Yeah. They said, "There's this client that you filled
13 out -- that you did that Advantage Line for, and you filled
14 out this verbal verification form that went along with
15 this -- you know, this program," and that's when I educated
16 them on, no, they're two separate things, two different
17 deals. But I didn't even remember, you know, that instance.
18 I didn't even remember that I did a personal credit line for
19 those guys, or loan, or whatever that form was used for.
20 That's why I -- you know, when I first met them, I didn't
21 even remember the client. I couldn't point them out in a
22 lineup to save my life. I've dealt with so many clients, so
23 many things, and there were a lot of things brought up in my
24 termination interview in 2000. And I was never told
25 specifically why. Like I said, the thing that stuck with me

1 most was doing the business with the family and then the
2 Advantage Line.

3 Q And did you ever talk to Sharon Bach or Jan Coonly during
4 this transaction where you got fired?

5 A No. I talked to -- I don't think it was Jan -- but
6 somebody in HR. Maybe Stephanie Rodriguez, or somebody like
7 that was the person I could call to appeal.

8 Q And you did that after you'd been fired?

9 A Yeah.

10 Q What did you understand was the reason they were
11 terminating you again?

12 A Because of my past employment in 2000. The termination
13 reasons for my 2000 termination, and they said that -- I'm
14 trying to remember. There were -- there were more -- more
15 things, or something. I don't know. But the bottom line is,
16 it was all connected to my prior employment in 2000.

17 Q Let me have you look at Exhibit 14.

18 A Okay.

19 MR. JOHNSON: We'll offer that into evidence, if
20 there's no objection.

21 MS. LUCHT: No objection.

22 THE COURT: Thank you. 14 will be admitted.

23 (Exhibit 14 admitted.)

24 Q (By Mr. Johnson) What is this Exhibit 14?

25 A My termination letter in 2010.

1 Q And did you ask for this?

2 A Yeah they mail it to me.

3 Q Who did you ask?

4 A The gal I spoke with about appealing I said I want a copy
5 of my termination letter and this is what she sent me and
6 just by looking at this, I was terminated on 4/26/2010 for
7 misconduct and violation of policy. I didn't have any
8 misconduct when I came back the second time and I was there
9 for such a short period of time I knew this just went along
10 with what they told me on the phone, that it was for my past.

11 Q In that conversation with Joey and David Leonard when they
12 told you they were going to fire you again, did they offer to
13 help you in any way?

14 A They did. They said that they felt really bad about this
15 and I could use them for references.

16 Q Who said that?

17 A I don't remember which. I know David for sure. I don't
18 know if Joey did. I can't remember.

19 Q Was the conversation one in which you understood they were
20 on the phone together the whole time? They were both there?

21 A Yeah.

22 Q And did you have any further contact with either of them
23 after the termination?

24 A Joey no, David, yes.

25 Q What was your contact with David?

1 Q And what did that severance provide you with?

2 A I was paid through -- I believe it was December of 2013.

3 Q Just your regular base salary?

4 A Correct.

5 Q Okay. And what have you been doing since then, besides
6 getting married? You got married, right?

7 A Yeah. I got married. I graduated from PBCS last August.
8 Finished that. Immediately when I found out my job was going
9 away, and I told them I wasn't going to accept the New York
10 job, which kind of caught them by surprise, I started talking
11 to everybody I know in the banking world, and trying to
12 figure out, you know, where the next place to go was going to
13 be for me. So I was having interviews before I was even out
14 of Key Bank, in June.

15 Q And how did it go?

16 A Interviews went great. I got -- I was getting pursued,
17 just like when my Wells Fargo jobs disappeared, and I was
18 getting called about lots of leadership opportunities all up
19 and down the West Coast and Midwest areas. I had a lot of
20 banks that I went down the path with, pretty lengthy, where
21 they were flying me around for interviews, and would get down
22 to the end of the line where, you know, it comes time to make
23 a decision, or when they do their background checks, and then
24 everything goes cold and just stops, and I believe that to be
25 because of the information that's online about me pertaining

1 to this case. So it's been very difficult to secure
2 employment in the banking industry.

3 And I've been verbally told and received it in writing
4 from other hiring managers from different banks saying, "I'd
5 love to have you on board. I know you'd rock it here, but I
6 can't do anything until your case is completed."

7 Q Your case against U.S. Bank?

8 A Correct.

9 Q So no banking job, still?

10 A No.

11 Q And what have you decided to do instead?

12 A Try to take my, you know, my destiny in my own hands. So
13 I went and got my commercial real estate license in January.
14 And I've since become the managing director for Coldwell
15 Bankers' merger and acquisition division, and it's something
16 that they want to grow nationwide. It's going to take some
17 time, but I'm going to try to build this from the ground up.

18 Q When were you given that job?

19 A Maybe about two weeks ago is when it was official. I've
20 been in conversations with Coldwell Banker for the last two
21 months. I've been in conversations with Kidder Mathews, and
22 also someone else in the same role.

23 Q You're not actually being paid a salary in that position?

24 A No. It's 100 percent commission.

25 Q What made you decide that was the right thing to do?

1 A I didn't really, you know, have any other options. The
2 banking -- the banking doors are closed right now. And, you
3 know, like I said, this is -- I have no choice but to take
4 this into my own hands and try to do whatever -- whatever I
5 can.

6 Q What is the outlook, in your mind? What are you hoping
7 happens with mergers and acquisitions with Coldwell Banker?

8 A My outlook is optimistic. You know, there's going to be a
9 lot of business of selling in the next decade in the business
10 world. So I think there's going to be opportunity there, but
11 I have to go out there and make it happen and build this
12 team.

13 And I think that somewhere in the 24- to 36-month
14 timeframe is when I'll really start earning some -- some
15 decent income, maybe comparable to where I was, and hopefully
16 exceeding it down the road.

17 Q Okay. If you want to summarize at this point the harm you
18 feel like was caused to you by being terminated for the
19 second time by U.S. Bank.

20 A You know, really, really difficult. I mean, I was
21 devastated enough the first time. And, you know, I -- I
22 looked at the second time as a second chance and an
23 opportunity to really go back and make things right with them.
24 And getting -- you know, getting fired the second time was
25 brutal and very difficult. And since my job dissolved at

1 Key.

2 MR. JOHNSON: Your Honor, the only objection I have
3 is that I don't think it's relevant, that these various
4 employment documents reciting the at-will doctrine from ten
5 years, twelve years earlier. And to the extent we keep doing
6 this, which I think we will, I think it's a waste of time and
7 irrelevant and redundant.

8 MS. LUCHT: Your Honor, I think it goes to whether or
9 not he understood that employment with U.S. Bank was at-will.

10 THE COURT: The objection will be overruled. A-2
11 will be admitted.

12 (Exhibit A-2 admitted.)

13 Q (By Ms. Lucht) All right. Am I correct that A-2
14 indicates that, "I understand the amendment does not create
15 any contract rights or alter my status as an at-will
16 employee"?

17 A It looks like it.

18 Q All right. Will you take a look at Exhibit A-3, please?
19 Do you recognize that document?

20 A No, I don't.

21 Q Is that your signature on the document?

22 A Yeah, that's my signature.

23 Q Okay. And so you signed this in May of 1997; is that
24 correct?

25 A Correct.

1 MS. LUCHT: I move to admit Exhibit A-3.

2 MR. JOHNSON: Same objection.

3 THE COURT: Overruled. A-3 will be admitted.

4 (Exhibit A-3 admitted.)

5 Q (By Ms. Lucht) All right. And this is a handbook,
6 Personnel Policies and Procedures, receipt; is that correct?

7 A I don't see where it says that.

8 Q Well, at the top, it says, "I have read the personnel
9 policies and procedures section of the U.S. Bank handbook."

10 A Okay. Gotcha.

11 Q And, again, this confirms that it's at-will employment; is
12 that correct?

13 A Correct.

14 Q All right. And can you turn to Exhibit A-4, please? Do
15 you recognize that document?

16 A It looks like my letter of employment after First Bank
17 bought U.S. Bank.

18 Q And that's because there was a bank merger, and you
19 continued on; is that correct?

20 A Correct.

21 MS. LUCHT: I move to admit Exhibit A-4.

22 MR. JOHNSON: Same objection.

23 THE COURT: Overruled. A-4 will be admitted.

24 (Exhibit A-4 admitted.)

25 Q (By Ms. Lucht) And this letter told you your employment

1 with the new organization or its affiliate will be employment
2 at will, correct?

3 A Correct.

4 Q And I'd like you to take a look at Exhibit A-5. Do you
5 recognize that document?

6 A This was the confirmation of the offer they made to me in
7 2010.

8 Q Okay. And after you received this, you accepted
9 employment with U.S. Bank, correct?

10 A I did.

11 MS. LUCHT: I move to admit Exhibit A-5.

12 MR. JOHNSON: No objection.

13 THE COURT: A-5 admitted.

14 (Exhibit A-5 admitted.)

15 Q (By Ms. Lucht) Okay. And at the bottom of this letter --
16 you read this letter, correct?

17 A I don't even know if I really read this. I might have
18 skimmed through it and -- I don't know. I don't remember.
19 It's a boilerplate confirmation of an offer. Pretty
20 standard.

21 Q And it's just one page, right?

22 A I think so. Yeah.

23 Q It's an addendum about the salary; is that correct?

24 A Yes. It's a two-page document.

25 Q And at the bottom paragraph it says, "This letter does not

1 create a contract of employment. Your employment at U.S.
2 Bank will be at will and may be terminated by you or U.S.
3 Bank at any time with or without notice, for any reason." Do
4 you see that?

5 A I see it, yes.

6 Q All right. And can you tell me, did Mr. Leonard or
7 Ms. Nix make any promises to you during the interview process
8 or prior to you accepting employment with U.S. Bank?

9 A They assured me that my previous employment -- previous
10 termination wasn't going to be an issue moving forward with
11 the new job, that the past was in the past, and I get to
12 start over with U.S. Bank.

13 Q Do you recall being deposed in this case, in September,
14 with your counsel there, September of 2011?

15 A Yes.

16 Q Can you turn to page 134 of the deposition?

17 A Okay.

18 Q And do you see a line 6? "QUESTION: And did Mr. Leonard
19 or Ms. Nix make any promise to you during the interview
20 process or prior to you accepting employment with U.S. Bank?
21 "ANSWER: Promise of."

22 There was an objection. And then the question: "Did
23 Ms. Leonard or Ms. Nix make any promises to you during
24 the interview process or prior to you accepting employment
25 with U.S. Bank?" There was an objection, and then you said,

1 There's a file, there's a record of me, you know, in the
2 system. I'm pretty sure it said I wasn't eligible for rehire
3 and the reasons there. So I knew they had to -- they had to
4 go down their path and talk to the right people and find out
5 if I could, indeed, get an exception to be rehired?

6 Q But you actually were present at your termination,
7 correct?

8 A In 2000?

9 Q Yes.

10 A Yes.

11 Q So you, presumably, know the facts regarding your 2000
12 termination, correct?

13 A No. I mean, I remember, like I said, the two things that
14 stuck out that I think we spent the most time on, were doing
15 business with a family member, and also the Advantage Line,
16 the deal I did for those clients.

17 I don't remember, you know -- I didn't remember at the
18 time when I met with them anything else. As I got to see
19 some of these documents, some things have kind of come back,
20 but I still don't -- they never told me, "You're being
21 terminated for X, Y, Z." They just said, "We're not going to
22 continue your employment here," and I didn't receive a
23 letter.

24 Q And they questioned you for two hours, including showing
25 you the documents that we've discussed, the verbal income

1 verification form and the Advantage Line credit application,
2 correct?

3 A Like I said, to the best of my knowledge. I didn't
4 remember the exact timeframe or the exact line of questioning
5 on everything. I told them exactly what I did remember.

6 And I actually said, you know, "If there's anything else,
7 you know, you guys have a file on me, you have a history, so,
8 you know, you're going to find it."

9 Q Do you remember Joey Nix asking you, "Is there anything
10 else I need to know? "

11 A I don't. She might have, but I don't remember exactly.
12 But I would have responded if she did. I would have said,
13 you know, "I told you what I remember. You guys have the
14 file on me, so, you know, tell me what you find, tell me how
15 this goes."

16 Q And you were only 24 when you were terminated in 2000,
17 correct?

18 A Twenty-three.

19 Q Did you not turn 24 in January of 2000?

20 A No. I started when I was 21, in '97. I thought I was 23
21 when they terminated me.

22 Q Well, regardless, you were fairly young, correct?

23 A Yeah, I was very young.

24 Q And you testified that you were doing phenomenally and had
25 all this success; is that correct?

1 A I did well there, yes.

2 Q So was it memorable when you had to be questioned for two
3 hours about ethical violations, and then fired?

4 A I told you what I remember to the best of my ability.
5 That day was a blur. It was, you know, from left field, and
6 just something that I never, ever experienced. You know, at
7 that time I was young, and I just stunned, and it was tough.

8 Q And you indicated that other people at the bank were
9 jealous of you because of your success, correct?

10 A Sure.

11 Q And you suggested that that might have been why you were
12 investigated in 1999; is that correct?

13 A Possibly. I don't know. I know why it was. I know why
14 it happened, and that is because that broker guy went to a
15 local branch in California, and then it ran up through the
16 state manager. But I was audited many times. And I got
17 audited every day by other bankers, because we could all see
18 each other's sales activity. We had a system back then where
19 anybody could go on and look at what you were doing. And
20 then there were bankers, just like I was, who were working on
21 the same plan, and they could do the math and see what I was
22 making. And so, yeah, there was cruel talk, there was, you
23 know, all kind of things. Plus, I was very young, and there
24 weren't too many people that were happy about that.

25 When I got promoted into my role, my boss told me that a

1 correct?

2 A Uh-huh.

3 Q And then within the same week, there were verbal income
4 verification forms that you completed, correct?

5 A Correct.

6 Q And those indicated an income level consistent with the
7 \$80,000, not the \$30,000, correct?

8 A Yes.

9 Q And that was false, correct?

10 A Yeah.

11 Q Because the true income was the \$30,000 that the customer
12 originally put on the loan application, correct?

13 A To the best of my knowledge, yeah. It looks that way.

14 Q And you did fill in some of the information in the
15 Advantage Line credit application?

16 A Yes.

17 Q So you're not disputing that your handwriting is on these
18 documents?

19 A No.

20 Q Or that you filled them out with false information?

21 A No.

22 Q Are you claiming it was not against the bank's code of
23 ethics to engage in this conduct?

24 A We were coached back then. When we got applications like
25 this, when they left these things out, these guys were

1 probably referred to me from that broker, and the broker
2 probably told them, you know, "Leave these areas blank, and
3 talk to Rahsaan, and figure out what you guys need to put in
4 here to qualify." That very well could have been happened.

5 Q You think that could have happened. You don't know?

6 A Yeah. I would have talk to the clients, and this is where
7 the coaching part came in. I told them, "Hey, you're
8 probably going to need to be at this income level to qualify
9 for this loan. What do you want me to put here?" And this
10 was -- you know, I hate to say it, but it was a very common
11 practice back then.

12 Q You knew it was wrong, though, correct?

13 A No, not necessarily, no. I didn't figure -- I didn't
14 really understand the risk tolerance and the -- you know, the
15 things that we were doing that were putting the bank in
16 harm's way until I really started working on the development
17 of the new broker division, and that's when the light went
18 off for me.

19 I didn't have that -- that experience or that knowledge to
20 really understand the risks, and I was pushed so hard to
21 create numbers. And I wasn't the only banker who did that.
22 It was very, very common practice.

23 Q Did you get along okay with Ryan Gipple?

24 A Yeah, yeah.

25 Q Did you think he agreed with your termination in 2000?

1 A I don't know. I know he was really upset about it. I
2 don't know if he agreed with it or not.

3 Q He's the one that actually terminated you, correct?

4 A I believe so, yeah. He was my hiring manager.

5 Q After you reviewed these documents during the two-hour
6 investigation, correct?

7 A Yeah, it sounds that way.

8 Q So at least in his opinion, this wasn't okay at the bank;
9 is that correct?

10 A Sure.

11 Q And he was your manager who you worked with a lot, and he
12 promoted you, correct.

13 A I wouldn't say I worked with him a lot. I didn't work
14 under him until I moved into this position. He was another
15 layer of my former boss.

16 Q And when you moved over to the mortgage broker program,
17 you were working with the brokers more, correct?

18 A Strictly brokers.

19 Q But back when you were processing this loan application in
20 June of '99, you were still working directly with customers,
21 correct?

22 A Correct.

23 Q And you had testified that when you got investigated in
24 '99, the events that led to that was some broker coming to
25 you with some application, and you saying, "I have to have"?

1 Q Was his termination related to some large-scale fraud
2 investigation involving other bankers?

3 A No.

4 Q Did you misrecollect that, it to be part of that, in 2010,
5 when you discussed his rehire?

6 A Rephrase the question, please.

7 Q Did you initially think that Mr. Freeman's termination in
8 2000 -- let me back up and start over.

9 In 2010, when you learned he had been rehired and you
10 were discussing that with others in the bank, did you
11 initially think that his termination was part of some
12 large-scale fraud investigation involving other bankers?

13 A No.

14 Q So the reasons, in your mind, for his termination in 2000
15 were falsifying an Advantage Loan application for the
16 Erdahls, falsifying income verification forms for the
17 Erdahls, and doing the mortgage with his brother-in-law; is
18 that right?

19 A And the other issues that all added up, but the main topic
20 of the conversation back in 2000 was the Erdahl loan.

21 Q And him having helped them fill out the Advantage Line
22 loan application, and him having completed the income
23 verification forms were, in your mind, equally serious, right?

24 A He committed loan fraud with both the loan application and
25 the income verifications, yes, equally serious. Had mentioned

1 to them at the time of his rehire.

2 Q Yeah. You thought that what he disclosed to Ms. Nix and
3 Mr. Leonard when they interviewed him for this job was, "I
4 was fired for doing a second mortgage on my house with my
5 brother-in-law"?

6 A That's what I recall, after reading my deposition.

7 Q And you thought that was all he disclosed?

8 A Yes, but I don't know.

9 Q And you didn't even recall that issue when you first heard
10 he'd been rehired?

11 A Right.

12 Q You didn't recall -- just so it's clear, that you didn't
13 recall that he had done a second mortgage with his
14 brother-in-law, and that had come up during the interview
15 that led to his first termination?

16 A Correct.

17 Q But you thought that's what he told Mr. Leonard, that this
18 was the reason for his termination.

19 A I believe so, yes.

20 Q There are, I think, six people in human resources in this
21 district, or there were at the time; is that right?

22 A I don't think I understand the question.

23 Q In this district, I don't know if the district that we're
24 in or that you worked in in 2010, if it includes more than
25 Western Washington, I don't know the exact boundaries I had

1 mentioned to them at the time of his rehire.

2 Q Yeah. You thought that what he disclosed to Ms. Nix and
3 Mr. Leonard when they interviewed him for this job was, "I
4 was fired for doing a second mortgage on my house with my
5 brother-in-law"?

6 A That's what I recall, after reading my deposition.

7 Q And you thought that was all he disclosed?

8 A Yes, but I don't know.

9 Q And you didn't even recall that issue when you first heard
10 he'd been rehired?

11 A Right.

12 Q You didn't recall -- just so it's clear, that you didn't
13 recall that he had done a second mortgage with his
14 brother-in-law, and that had come up during the interview
15 that led to his first termination?

16 A Correct.

17 Q But you thought that's what he told Mr. Leonard, that this
18 was the reason for his termination.

19 A I believe so, yes.

20 Q There are, I think, six people in human resources in this
21 district, or there were at the time; is that right?

22 A I don't think I understand the question.

23 Q In this district, I don't know if the district that we're
24 in or that you worked in in 2010, if it includes more than
25 Western Washington, I don't know the exact boundaries I

1 A Correct.

2 Q And you didn't have hardly any contemporaneous notes from
3 which to prepare them? You went from memory?

4 A Right.

5 Q And most of the pages we're looking at purport to be a
6 verbatim transcript, don't they, like question, answer,
7 question, answer, right?

8 A It's not verbatim.

9 Q No?

10 A We met for two hours so this is a summary of that two-hour
11 meeting.

12 Q And it's very incomplete?

13 A It's not complete, you're correct.

14 Q And it's fairly one sided you'd admit that?

15 A No this is factual information.

16 Q You included only the things that you thought were most
17 egregious.

18 A This is a summation of that two-hour meeting that
19 Mr. Gipple, Mr. Reichert and I had with Mr. Freeman.

20 Q And you don't have any independent recollection of what
21 was said in that interview independent of this piece of
22 paper?

23 A I have the independent recollection of the Erdahl
24 falsification but --

25 Q Sorry to interrupt but I'm talking about what specifically

1 was said in the interview and is being reflected in these
2 notes. You don't have any independent recollection of what
3 was said?

4 A I do have an independent recollection of the Erdahl
5 falsification.

6 Q I'm talking about what was said in the interview. You
7 know, there are quite a few, for example, on the second,
8 third page, 356 where you start is this your handwriting and
9 Mr. Freeman's answers go on at length with one word each,
10 right?

11 A Yes.

12 Q And you don't know now as you sit here whether he actually
13 only answered with one-word answers during that portion of
14 the interview?

15 A I don't know but this is a summary.

16 Q Okay and one more question. This wasn't actually in his
17 personnel file, right? It was in your office in a file
18 folder that you discovered when you found out that Joey Nix
19 and David Leonard had hired him?

20 A This was in my office but my practice would have been to
21 put copies in his personnel file as well.

22 Q But you know that Jan Coonley and her people in Seattle
23 couldn't find the personnel file?

24 A That's because the termination was so old that that
25 personnel file would have been destroyed.

1 Q And in that capacity, you recruited Rahsaan Freeman in
2 2010?

3 A He applied for the job, and I hired him.

4 Q You recruited him, right?

5 A What do you mean by "recruited"?

6 Q You called him and asked him to apply?

7 A Yes.

8 Q And U.S. Bank authorized you to recruit and hire someone
9 for that position?

10 A Correct.

11 Q Now, I understand you heard he was available from someone
12 else, another banker, and that he was really good, so you
13 called him and asked him if he would be interested in the job
14 at U.S. Bank, right?

15 A Correct.

16 Q And for that position, you considered about 27 different
17 candidates, right?

18 A That's correct.

19 Q And you interviewed about ten of them?

20 A Uh-huh, yes.

21 Q And I understand the top four candidates would be asked to
22 submit to a talent assessment of some kind by the Gallup
23 organization?

24 A It wasn't always the top four, but that was what our goal
25 was. In other words, if we had an abundance of applicants,

1 A Yes.

2 Q So was he already in your top four, then, at that point?

3 A No. He was one of probably just a couple. I hadn't
4 Galluped everybody yet. He was one of the first people we
5 Galluped.

6 Q Okay.

7 A But he scored an A.

8 Q Sure.

9 And this -- you had him do the Gallup right away, like,
10 before you even investigated his past termination, right?

11 A I believe so.

12 Q And in your very first conversation with him, when you
13 called him initially, he told you that he worked at U.S. Bank
14 before and had been terminated, right?

15 A Yes.

16 Q And he specifically told you that he didn't exactly know
17 why or know all the reasons he had been terminated, right?

18 A Yes.

19 Q And he told you what he understood were the reasons?

20 A Yes.

21 Q That he'd done a second mortgage with his
22 brother-in-law --

23 A Uh-huh.

24 Q -- for himself, and that he had coached some customers on
25 what to say to qualify for a loan?

1 place? Did that happen?

2 A I was told they were searching for his file.

3 Q So you and Joey did speak to somebody in human resources,
4 right?

5 A Yes.

6 Q And was that -- that was the same day you both interviewed
7 him?

8 A Yes.

9 Q And who did you speak to first in human resources?

10 A Jan Coonley.

11 Q And she is, I think, in Los Angeles, right?

12 A Gosh, I don't know where she was at.

13 Q Oh, you don't?

14 A No. I didn't know what city she was in.

15 Q Why did you call her?

16 A Because she was in charge of our group, the small business
17 group, for HR.

18 Q Did you call anyone local in human resources?

19 A When?

20 Q I guess ever in this process.

21 A No. She was our assigned person. She was in charge of
22 our group. I had no reason to call anybody else.

23 Q Did you know any of the people in human resources in
24 Seattle?

25 A No.

1 A That's correct.

2 Q Did you ask Sharon Bach or anyone else if that was true?

3 A I believe we asked Ian, and Ian didn't remember it. And
4 Sharon didn't -- she said it was used, but she didn't know
5 when it started and when it ended.

6 Q Mr. Leonard, you thought Rahsaan Freeman's termination --
7 that he got a raw deal, don't you?

8 A Yeah.

9 Q Did you tell him that?

10 A That he got a raw deal?

11 Q Yeah.

12 A No.

13 Q You didn't think he was treated fairly, did you?

14 A Yes.

15 Q Did you tell him you didn't think he was being treated
16 fairly?

17 A No.

18 Q He was pretty upset, though, when he heard you were
19 terminating him, right?

20 A We all were upset.

21 Q Did he mention to you taking legal action?

22 A Yes.

23 Q But he called you and talked with you about banking and
24 about other jobs, several times, after you terminated him,
25 right?

1 A Yes.

2 Q So did you feel he still trusted you and valued your
3 feedback?

4 A Yes.

5 Q So evidently he wasn't upset with you personally?

6 A It didn't seem like it, no.

7 Q Can you think of why that might be?

8 A We built a rapport during the initial interview and second
9 interview, and, plus, we were trying to keep him, until we
10 had evidence that changed our mind.

11 MR. JOHNSON: Thank you.

12 THE COURT: Cross-examination for Mr. Leonard?

13 CROSS-EXAMINATION

14 BY MS. LUCHT:

15 Q Mr. Leonard, when you reviewed the information that
16 Ms. Bach sent to you, what did you conclude as to what
17 Mr. Freeman told you during the interview process?

18 A That what he was terminated for was not the things that he
19 had told us.

20 Q And did you believe he had been honest during the
21 interview process?

22 A No.

23 Q And did you believe that, based on what he had told you
24 and what facts were uncovered, it was appropriate to keep him
25 employed at U.S. Bank?

1 A No.

2 Q And with respect to Sharon Bach, you didn't know Sharon
3 Bach, because she wasn't involved with your group, correct?

4 A That's correct.

5 Q So Mr. Freeman never indicated that Ms. Bach would have
6 any information about his employment, correct?

7 A No.

8 Q Would you have any reason to think that she did have
9 information about his former employment?

10 A No.

11 Q And did you have any obligation to follow Ms. Bach's
12 recommendation regarding termination?

13 A No.

14 Q And who would make the final termination decision?

15 A Joey and myself.

16 Q Did you ever tell Mr. Freeman that the past is in the past
17 and nothing that had happened in 2000 would affect his
18 current employment?

19 A No.

20 Q And with respect to after Mr. Freeman was offered the job,
21 did he tell you he was going to go start working off the
22 clock and bring deals over?

23 A No.

24 Q And then when he actually started his employment with U.S.
25 Bank, did he ever bring you any deals?

1 Q (By Ms. Lucht) Were you only involved in one interview
2 with Mr. Freeman?

3 A I believe so.

4 Q And can you tell me in a little more detail how he
5 explained the two issues that he said he was terminated for?

6 A Yes. The one issue that he explained was he had -- he
7 wanted to get a home equity loan, and that our process would
8 be to do it through one of our branches, that he did not feel
9 comfortable with any of his peers or branch managers knowing
10 his income or his personal information, and that his
11 brother-in-law worked for the bank, and that he asked and
12 received permission from his supervisor to have his
13 brother-in-law process the loan, because our company policy
14 is we do not do business with family members.

15 Q And so you understood that he had the authority of his
16 manager at the time?

17 A Yes, yes. And the other issue that he shared with us was
18 that he had coached a customer, and that at the time -- the
19 way he explained it to me was that it was more like a sales
20 technique in order to get a higher loan amount, and explained
21 to the customer what level of income it would require or what
22 the business revenue would need to be in order to qualify for
23 a certain loan amount, and then would ask, you know, "Is it
24 possible that" -- "best case scenario, is it possible that
25 your company could generate sales of this amount?" And if.

1 Q And why did you think he had falsified it?

2 A Because the hourly rate did not -- the wage was not
3 correct. And also I subsequently learned that Ken Clarkston,
4 the name of the individual who verified the employment for
5 the Washington State Patrol, was a fictitious name.

6 Q And after seeing this information that Ms. Bach provided
7 that Mr. Freeman worked on, what did you conclude?

8 A I concluded that what he had told me in the interview and
9 told me repeatedly when I asked him if there was anything
10 else or what the reason -- you know, that he could recall
11 anything that would, you know, the circumstances, that he
12 hadn't been truthful with me.

13 Q And at that point did you think it appropriate to continue
14 to employ him?

15 A No, I thought it was inappropriate. I thought it was
16 appropriate to terminate him.

17 Q At any point did you think he got a raw deal?

18 A No.

19 Q And did you ever tell him that you thought he got a raw
20 deal or that you thought the bank was doing something unfair?

21 A No.

22 Q At any point did you tell him the termination decision was
23 unfair?

24 A No.

25 Q And who made the termination decision?

1 A I did.

2 Q And did you also learn anything about the brother-in-law
3 processing the loan, from the termination documentation from
4 2000?

5 A In the termination documentation from 2000, it just
6 mentioned that he had a family member process the loan.
7 There was no mention of what he had specifically stated to
8 me, that he had received approval.

9 Q Okay. So there's no mention of a manager letting him do
10 it?

11 A No.

12 Q Which is what he told you during the interview process,
13 correct?

14 A Yes. And during the interview process, when I asked him
15 why he would be terminated for something that a manager had
16 approved, why wouldn't the manager be able to corroborate his
17 story, he said the manager no longer worked for U.S. Bank.

18 Q But as far as you know, that was never raised in the
19 termination, correct?

20 A No.

21 Q And when you had the documents, and then called -- you,
22 again, called Mr. Freeman, correct?

23 A Yes.

24 Q And how did he explain this?

25 A He said that he was -- we -- he was most fixated on the

1 verification of employment income form, stating that that
2 couldn't possibly be the case, because that document did not
3 exist until well after 1999, and he felt that this was all
4 part of a big forgery to terminate him, that it was
5 doctored-up information to terminate him and to discredit
6 him.

7 Q And did he think Sharon Bach was making up things?

8 A He didn't state that, to my recollection, but it seemed to
9 be implied.

10 Q Okay. So he was suggesting that someone had somehow
11 doctored these --

12 MR. JOHNSON: Objection.

13 THE COURT: Let me have you rephrase.

14 Q (By Ms. Lucht) What did he tell you about whether or not
15 the documents were authentic?

16 A He said that he was -- he was very familiar with the
17 documents. But he said -- he specifically stated that
18 document was not in existence in 1999, and couldn't -- and he
19 did not -- and said that that was not part of the
20 termination.

21 He also stated that Sharon Bach was not part of the
22 termination, that she was not in the room, that he didn't
23 know who she was.

24 MR. JOHNSON: Excuse me. I move to strike the
25 statement about what Mr. Freeman was familiar with during the

1 phone conversation. Lack of foundation.

2 MS. LUCHT: I believe the plaintiff testified as to
3 what Mr. Freeman told her he was familiar with.

4 THE COURT: Correct. The objection will be
5 overruled.

6 Q (By Ms. Lucht) So he indicated that Ms. Bach wasn't a part
7 of the termination at all?

8 A Yes.

9 Q Okay. And did you believe that that was correct?

10 A Did I believe that...?

11 Q That Ms. Bach was not involved in the termination.

12 A No. I believed she was.

13 Q So did you think he was telling you the truth during that
14 telephone conversation?

15 A No.

16 Q And when you initially hired him, did you have concerns
17 about him, based on his past?

18 A I knew I was taking a risk, but, again, I felt that, given
19 the circumstances and what he had portrayed to me, that that
20 could be plausible. I also had repeated conversations with
21 David that, you know, I wanted to make sure that we, you
22 know, watched him like a hawk, was my exact words, that every
23 deal Mr. Freeman submitted, that needed to be reviewed by
24 David, and David needed to meet with every customer.

25 Q And you actually had to hold the job open for him, right?

1 A Yes.

2 Q And you sent him to training in California?

3 A Yes.

4 Q And did you ever see any indication that he was actually
5 bringing customers to U.S. Bank before his employment or
6 during his employment?

7 A No.

8 Q Okay. And do you understand what at-will employment is?

9 A Yes.

10 Q And are you authorized to change employees' at-will
11 employment at U.S. Bank?

12 A No.

13 Q And did you ever say anything to Mr. Freeman that
14 suggested he couldn't be terminated for some specific reason?

15 A No.

16 Q And did you ever promise him, "the past was in the past"?

17 A No.

18 Q Did you ever say anything like that?

19 A No.

20 Q All right. And did you ever tell him that his prior
21 termination would not impact his future employment with U.S.
22 Bank?

23 A No.

24 Q And you were upset at the termination time, correct?

25 A Yes.

C E R T I F I C A T E

I, Nancy L. Bauer, CCR, RPR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do hereby certify that I was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I have caused said stenographic notes to be transcribed under my direction and that the foregoing pages are a true and accurate transcription to the best of my ability.

Dated this 29th day of July 2014.

/S/ Nancy L. Bauer

Nancy L. Bauer, CCR, RPR
Official Court Reporter

